

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

BAY STATE GAS COMPANY

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D.T.E. 06-36

PETITION TO INTERVENE OF STILES AND HART BRICK COMPANY

Pursuant to 220 C.M.R. 1.03(1)(a), the Stiles and Hart Brick Company requests that the Department of Telecommunications and Energy ("Department") grant it leave to intervene as a party in the above-captioned docket. "Petitioner has standing pursuant to M.G.L. ch. 30A, sec. 10, first paragraph, clause (4), since Petitioner 'may be substantially and specifically affected by the proceeding ...'"

As grounds therefore, Petitioner states:

1. Petitioner (hereinafter, "S&H") is in the business of manufacture of brick, which function requires sometimes massive amounts of energy to fire the kilns in which brick are finished. S&H has been a customer of Bay State Gas since October 13, 2000, although until 2002 the kilns were fired by coal, and in that year the company decided to convert one or more kilns (assuming success of the initial conversion of one kilns) to use gas for firing.
2. Since 2002, one kiln has been converted, but the meter fit installed, owned and controlled by Bay State Gas ("BSG") was installed without plans, diagrams, specifications or engineering oversight, resulting in an installation that violates the minimum standards imposed by component manufacturers, American Gas Association industry standards, and even the BSG manuals that apply. The effect of the mis-installation of the meter fit was gross overread of volumes of gas consumed during initial firings of the kiln, and S&H entreaties to replace the meter fit have been refused until DTE ordered replacement.
3. Litigation surrounding this mis-installation reveals that BSG posits that its Tariff protects it from actions based in contract, M.G.L. ch. 93A, or warranty law, and further limits damages for negligence to direct damages only.
4. DTE 06-36 appears to intend itself to continue to hold customers hostage to BSG's ability to create significant damage without any real liability, specifically since it appears to be a request to allow for increased rates for delivery (not for product, whose cost is affected by market forces outside the U.S.), where those rates may fluctuate without notice or prior approval.

5. The Department's rules permit the full participation of parties with substantial and specific interests. 220 C.M.R. 1.03(1).

6. S&H has a substantial and specific interest in the pending investigation, since it is a customer required to be notified, and since its pricing and economic projections are substantially affected by energy costs (including costs of delivery).

7. No other party can adequately represent the interests of S&H.

8. S&H intends to participate as a full participant and take part in issues that may substantially and specifically affect its business.

WHEREFORE, Stiles and Hart Brick Co., by its attorney, respectfully requests that it be accorded full participant intervention status in this proceeding.

STILES & HART BRICK CO.
By its attorney,

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Dated: May 17, 2006

CERTIFICATE OF SERVICE
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I hereby certify that on May 17, 2006, Lincoln D. Andrews caused a copy of the foregoing Petition To Intervene to be served in person upon the following service list:

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